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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,211	03/23/2004	Hiroki Hasegawa	826.1938	1684
21171 7590 12/24/2008 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER CLOUD, JOIYA M	
			ART UNIT 2444	PAPER NUMBER
			MAIL DATE 12/24/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,211

Applicant(s)

HASEGAWA ET AL.

Examiner

Joiya M. Cloud

Art Unit

2444

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08/26/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the communication filed on 10/806211. Claims 2-10, 12, and 14 are PENDING.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/2008 has been entered.

2. ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-10, 12, and 14** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Jackson et al. (US Pub. No. 2002/0152305 A1)**

As per claim 2, Jackson teaches a computer-readable storage medium storing a program for a computer adjusting an amount of computer resources used in a system having a plurality of

modules each consisting of at least one application program, wherein the program causes the computer to perform: obtaining data representing a transition of a past transaction occurrences amount of a target module of the plurality of modules from a storage device storing data representing the transition of the past transaction occurrence amount for each of the modules, wherein the transaction occurrence amount indicates an offered load and the transition of the past transaction occurrence amount represents a variation of measurement values of the past transaction occurrence amount over a period of time; generating respective transitions of the past transaction occurrence amount in a plurality of types of cycles using the data representing the transition of the past transaction occurrence amount of the target module (**paragraph –[0623] (e.g., hourly daily, weekly or monthly basis refer to the types of cycles)**); displaying the generating transitions in the plurality of types of cycles on a screen (**paragraph [0625], where the resource utilization information is displayed to a user**); generating a transition of a predicted transaction occurrence amount of the target module in specific cycle units by combining the transitions of the past transaction occurrence amount in two or more types of cycles selected by an operator from among the plurality of types of cycles (**paragraphs [0452], lines 16-23, [0552], and [0559]-(0570) and paragraph [0623, where the user chooses the time period unit]**); generating a function that expresses a correlation between measurement values of a past transaction processing amount and measurement values of a past use resource amount of the target module and using the obtained data representing the transition of the past transaction occurrence amount as values of the past transaction processing amount in the function; generating a transition of a past use resource amount by applying the function to the

transition of the predicted transaction occurrence amount of the target module (**paragraphs [0463], and [0448]**), the transition

As per **claim 3**, Jackson teaches a resource adjustment apparatus for adjusting an amount of computer resources used in a system having a plurality of modules each comprising at least one application program, comprising a storage device storing data representing a transition of a past transaction occurrence amount for each of the plurality of modules, wherein the transaction occurrence amount indicates an offered load and the transition of the past transaction occurrence amount represents a variation of measurement values of the past transaction occurrence amount over a period of time (**resource utilization information**); a generation device obtaining data representing the transition of the past transaction occurrence amount of a target module of the modules from the storage device (**paragraph [0466], where Jackson discloses a comparison of analysis parameters of historical (past) resource utilization information that measure past use resources amounts and past transaction processing amounts and paragraph [0448]**), generating respective transitions of the past transaction occurrence amount in a plurality of types of cycles using the data representing the transition of the past transaction occurrence amount of the target module, displaying the generated transitions in the plurality of types of cycles on a screen (**paragraph –[0623] (e.g., hourly daily, weekly or monthly basis refer to the types of cycles)**), generating a transition of a predicted transaction occurrence amount of the target module in specific cycle units by combining the transitions of the past transaction occurrence amount in two or more types of cycle selected by an operator from among the plurality of types of cycles (**paragraphs [0452], lines 16-23,[0552], and [0559]–[0570]**), generating a function that expresses a correlation between measurement values of a past transaction processing amount and

measurement values of a corresponding past use resource amount of the target module (paragraphs [0552] and [0559]-[0570]), wherein the obtained data representing the transition of the past transaction occurrence amount is used as values of the past transaction processing amount in the function, and generating a transition of the past use resource amount by applying the function to the transition of the predicted transaction occurrence amount of the target module (paragraphs [0452], lines 16-23,[0552], and [0559]-[0570]), the transition of the past use resource amount indicating a variation of the past use resource amount over a period of time (paragraph [0448]); and an allocation device using the generated transition of the past use resource amount as a transition of a predicted use resource amount and automatically fluctuating an allocation resource amount of the target module in accordance with the transition of the predicted use resource amount (Figure 17, paragraphs [0343], [0390], [0463], and [0466]).

As per claim 4, Jackson teaches a storage medium wherein the program causes the computer to perform: generating transitions of a mean value and a maximum value of transaction occurrence amounts regarding at least two modules in each of the plurality of types of cycles in the system; displaying the generated transitions the screen; combining the transitions of transaction occurrence amounts in the two or more types of cycles using a value selected by the operator; and generating the transition of the predicted transaction occurrence amount (paragraphs [0452], lines 16-23,[0552], and [0559]-[0570]).

As per claim 5, Jackson teaches a storage medium wherein the program causes the computer to perform: displaying the generated transition of the use resource amount on a screen; and when the operator changes the displayed transition of the use resource amount, using the

changed transition of the use resource amount as the transition of the predicted use resource amount (**paragraphs [0623] and [0649]**).

As per claim 6, Jackson teaches a storage medium wherein the program causes the computer to perform: obtaining data that represents a transition of a most-recent transaction occurrence amount of the target module from the storage device; using a transition of a use resource amount generated by the transition of the most-recent transaction occurrence amount as a transition of a immediately-after predicted use resource amount; and fluctuating an immediately after allocation resource amount of the target module (**paragraphs [0461] and [0462]**).

As per claim 7, Jackson teaches a storage medium wherein the program causes the computer to perform: preferentially allocating resources to the target module during a period since a use resource amount of the target module reaches a predetermined bottleneck detection threshold until a use resource amount of the target module reaches a bottleneck elimination threshold (**paragraphs [0461], [0467], and [0600]**).

As per claim 8, Jackson teaches storage medium wherein the program causes the computer to perform: preferentially allocating resources to the target module during a period since a transaction occurrence amount of the target module reaches a predetermined bottleneck detection threshold until a transaction occurrence amount of the target module reaches a bottleneck elimination threshold (**paragraph [0461], [0466], [0467] [0600]**).

As per claim 9, Jackson teaches a storage medium wherein the program causes the computer to perform: instructing the target module to generate a child processing when a

predicted use resource amount of the target module reaches a predetermined amount (paragraphs [0009], [0030], [0031]).

As per claim 10, Jackson teaches a storage medium wherein the program causes the computer to perform: displaying a screen for capacity planning support including a transition of a use resource amount that is predicted for a long time (paragraph [0457, [0458]).

As per claim 12, claim 12 is substantially the same as claim 1 but in method form rather than computer-readable storage medium form. Therefore, the rejection for claim 2 applies equally as well to the rejection for claim 12.

As per claim 14, claim 14 is substantially the same as claim 2 but in apparatus form rather than computer-readable storage medium form. Therefore, the rejection for claim 2 applies equally as well to the rejection for claim 14.

Response to Arguments

A) Jackson does not teach or suggest the features of claim 2, 3, 12 and 14. More specifically, Jackson fails to teach or suggest "generating transitions of the past transaction occurrence amount in a plurality of types of cycles using the data representing the transition of the past transaction occurrence amount of the target module", "displaying the generated transitions in the plurality of types of cycles on a screen" and generating a transition of a predicted transaction occurrence amount of the target module in specific cycle units by

combining the transitions of the past transaction occurrence amount in two or more types of cycles selected by an operator from among the plurality of types of cycles.".

As to the above point A), Examiner respectfully disagrees. Examiner submits where Jackson clearly discloses the aforementioned features of claims 2, 3, 12, and 14. Specifically, Jackson teaches combining two cycles (*As indicated by Applicant's instant specification, the cycles are exemplified as a "day, week, month," see page 9, line 9*) chosen by the user (where Jackson discloses a plurality of units (cycles) chosen by the user and denoted by Year, Month, Week, Day, Hour and Minute, in which two or more cycles are combined (paragraphs [0452], lines 16-23,[0552], and [0559]-[0570]) and graphically displayed as output to the user (paragraph [0490], see also [0463], [0631]) and displaying the transitions on a user interface screen (where Jackson discloses the resource utilization information is output on a display to the user, paragraph [0458]. Furthermore, graphical representation is displayed of the plurality of cycles as shown in paragraph [0593], [0594] and [0609]).

B) Jackson does not teach or suggest the features of claim 8. More specifically, Jackson does not teach "preferentially allocating resources to the target module during a period since a transaction occurrence amount of the target module reaches a predetermined bottleneck detection threshold until a transaction occurrence amount of the target module reaches a bottleneck elimination threshold."

As to the above point B), Examiner respectfully disagrees. In response to Applicant's argument, Examiner submits that Jackson teaches reallocating a resource utilization pre-defined threshold is exceeded, "(e.g. by lessening or eliminating a condition of...bottleneck etc)."

(paragraph [0467] and see also [0466] Thus, Jackson clearly teaches the “preferentially allocating resources to the target module during a period since a transaction occurrence amount of the target module reaches a predetermined bottleneck detection threshold until a transaction occurrence amount of the target module reaches a bottleneck elimination threshold.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

/William C. Vaughn, Jr./

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Supervisory Patent Examiner, Art Unit 2444

December 16, 2008